

Date of Hearing: April 4, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2146 (Gloria) – As Introduced February 12, 2018

**SUBJECT:** Alcoholic beverages: tied-house restrictions: advertising

**SUMMARY:** Would extend an existing exception in the Alcoholic Beverage Control Act (Act) pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego (Petco Park – San Diego Padres). Specifically, **this bill:**

- 1) Allows beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at an outdoor stadium with a fixed seating capacity of at least 43,000 seats located in the City of San Diego.
- 2) Makes legislative findings and declarations as to the necessity of a special statute for the City of San Diego.

**EXISTING LAW:**

- 1) Establishes the Department of Alcoholic Beverage Control (ABC) and grants it exclusive authority to administer the provisions of the Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation, and sale of alcoholic beverages in this state and the collection of license fees for this purpose.
- 2) Separates the alcoholic beverage industry into three component parts, or tiers, of the manufacturer (including breweries, wineries, and distilleries), wholesaler, and retailer (both on-sale and off-sale). This is referred to as the "tied-house" law or "three-tier" system. Generally, other than exceptions granted by the Legislature, the holder of one type of license is not permitted to do business as another type of licensee within the "three-tier" system.
- 3) Prohibits, in general, a manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director or agent of any such person from owning, directly or indirectly, any interest in any on-sale license.
- 4) Prohibits, in general, a manufacturer, winegrower, distiller, bottler, or wholesaler, among other licensees, or agents of these licensees, from paying a retailer for advertising.
- 5) Provides a variety of exceptions from the advertising prohibition, including permitting specified licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee that is an owner, manager, or major tenant of certain stadiums, parks, entertainment complexes, and arenas, subject to specified conditions.

**FISCAL EFFECT:** Unknown

**COMMENTS:****Background**

Tied-house laws. Tied-house laws generally prohibit suppliers and retailers from sharing common owners and legally restrict alcohol beverage suppliers' ability to gain control over retailers through indirect means. The original policy rationale for this body of law was to: 1) promote the state's interest in an orderly market; 2) prohibit the vertical integration and dominance by a single producer in the marketplace; 3) prohibit commercial bribery and to protect the public from predatory marketing practices; and 4) discourage and/or prevent the intemperate use of alcoholic beverages.

These provisions prohibit a manufacturer from paying for advertising space at a stadium or sports arena where the facility is licensed to sell alcoholic beverages at events held at the stadium or arena.

Over the years numerous exceptions to this prohibition have been added to the ABC Act e.g. Levi's Stadium in Santa Clara, Oakland Coliseum in Oakland, Arrowhead Pond Arena in Anaheim, Kern County Arena in Bakersfield, the National Orange Show Events Center in San Bernardino, Auto Club Speedway, (formerly California Speedway) in Fontana, Grizzly Stadium in Fresno, Raley Field in West Sacramento, HP Pavilion in San Jose, StubHub Center (formerly the Home Depot Center) in Carson, and numerous other venues.

Petco Park. Petco Park is a baseball park located in the downtown area of San Diego that is home to the San Diego Padres of Major League Baseball. The construction cost of more than \$450 million was partially funded by the Center City Development Corporation and the San Diego Redevelopment Agency. The stadium was intended to be part of a comprehensive plan to revitalize San Diego's aging downtown, particularly the East Village area.

The ballpark is located between 7th and 10th Avenues, south of J Street. The southern side of the stadium is bounded by San Diego Trolley light rail tracks along the north side of Harbor Drive (which serve the adjacent San Diego Convention Center). The main entrance, behind home plate, is at the south end of Park Boulevard (at Imperial) and faces the San Diego Trolley station 12th & Imperial Transit Center.

The park opened in 2004, replacing Qualcomm Stadium, which the Padres shared with the San Diego Chargers of the National Football League. Petco Park is named after the San Diego-based pet supplies retailer Petco, which paid for the naming rights until 2026. In addition to baseball, the park is also used as venue for concerts, soccer, golf, and rugby sevens.

Petco Park is highly regarded as one of the MLB's best stadiums due to its magnificent architecture, amazing sightlines and breathtaking views of San Diego.

Purpose of the bill. Existing law precludes any signage paid for by an alcoholic beverage manufacturer at a stadium unless such an exception is created. The author's office states that existing ABC laws contain numerous exceptions to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees. AB 2146 amends ABC tied-house provisions to include Petco Park in San Diego on the list of exceptions in the law. This bill would put this specific outdoor stadium on an even playing field with other arenas and

stadiums in California, thereby allowing the operators of Petco Park to develop certain alcoholic beverage sponsorships with various manufacturers and distributors.

Related legislation. AB 2000 (Kalra) of 2018. Would extend an existing exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include an outdoor professional sports stadium with a fixed seating capacity of at least 3,000 seats located in the City of San Jose (San Jose Municipal Stadium – minor league baseball San Jose Giants), and an outdoor professional sports stadium with a fixed seating capacity of at least 15,000 seats located in the City of San Jose (Avaya Stadium – San Jose Earthquakes). Pending in Assembly G.O. Committee

Prior legislation. SB 582 (Bradford), Chapter 672, Statutes of 2017. Extends an existing exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified stadium (The Los Angeles Stadium at Hollywood Park), and venue located in the City of Inglewood, and a specified outdoor stadium of at least 70,000 seats in Los Angeles County (The Los Angeles Memorial Coliseum).

SB 664 (Dodd), Chapter 486, Statutes of 2017. Extends an existing exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale and manufacturer licensees to include an outdoor stadium (AT&T Park – San Francisco Giants) and an indoor arena (Chase Center – Golden State Warriors) with specified seating capacities located in the City and County of San Francisco.

AB 1724 (Jones-Sawyer), Chapter 478, Statutes of 2017. Extends an existing exception in the Act pertaining to the general prohibition against advertising arrangements between retail, wholesale, and manufacturer licensees to include a specified outdoor stadium located in the City of Los Angeles (Banc of California Stadium, the future home of the Los Angeles Football Club).

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

San Diego Padres (Sponsor)

### **Opposition**

Alcohol Justice

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